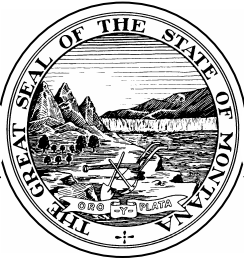


DEPARTMENT OF ADMINISTRATION
DIVISION OF BANKING AND FINANCIAL INSTITUTIONS



BRIAN SCHWEITZER
GOVERNOR

ANNIE M. GOODWIN
COMMISSIONER

STATE OF MONTANA

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June 15, 2007

To: Consumer Loan, Deferred Deposit Loan and Title Loan Licensees

Subject: Stored Value Cards

The Division of Banking and Financial Institutions (Division) has issued the enclosed legal opinion regarding stored value cards. In particular, this opinion addresses the Division's concerns relative to stored value cards being issued directly or indirectly by out of state banks.

If you have any questions regarding this legal opinion, please contact the Division at (406) 841-2920.

Sincerely,

A handwritten signature in cursive script, appearing to read "Annie M. Goodwin".

Annie M. Goodwin, Commissioner
Division of Banking and Financial Institutions

Encl

INTEROFFICE MEMORANDUM

TO: Annie Goodwin, Commissioner
Banking and Financial Institutions

FROM: Mark Prichard, Legal Counsel

DATE: June 15, 2007

RE: Stored Value Cards

QUESTION PRESENTED

1. Can out of state banks offer Stored Value Cards, directly or through agents, in Montana?

SHORT ANSWER

1. No. Section 32-1-403, MCA, prohibits any person from transacting banking business or otherwise taking deposits unless a certificate from the Department of Administration to conduct banking business is obtained.

FACTS

Stored Value Cards are much like credit cards that are pre-paid by the customer. The customer buys the stored value card by depositing a certain amount of money with the company. The money then is accessed electronically at ATMs or other electronic terminals. Some cards can be reloaded by depositing additional funds with the issuing company. Stored Value Cards are different from gift cards, phone cards or other cards that are strictly redeemable for merchandise and services, in that a customer can access cash.

Most companies issuing Stored Value Cards are not banks but act as agents for out of state chartered banks. While the agent sells the card to the customer, the funds are actually held in an account in the out of state bank.

DISCUSSION

It is clear that the Stored Value Cards are a mechanism to receive deposits. The taking of deposits is considered a banking business, Section 32-1-102, MCA, and as such is prohibited unless conducted by either a Montana state chartered bank, an out of state bank that has entered Montana through merger or consolidation, or a federally chartered bank.

Therefore, the Division of Banking and Financial Institutions may restrict the issuance of stored value cards by agents of out of state banks.